

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CARLOS DIAZ,

Plaintiff,

v.

DAN PACHOLKE, *et al.*,

Defendants.

Case No. C16-147-RAJ-JPD

REPORT AND RECOMMENDATION

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff submitted his complaint to the Court for filing on February 1, 2016 while he was confined at the Monroe Correctional Complex. (*See* Dkt. 1.) Though plaintiff submitted with his complaint an application to proceed with this action *in forma pauperis*, the Clerk determined that plaintiff had submitted the wrong *in forma pauperis* application form. Thus, the Clerk sent plaintiff a deficiency letter advising him that he would have to submit the proper form, or pay the filing fee, by March 4, 2016 or face dismissal of this action. (Dkt. 3.) On February 16, 2016, the copy of the Clerk's letter mailed to plaintiff at his address of record was returned by the post office with a notation indicating that the mail was not deliverable because plaintiff had been released from custody. (*See* Dkt. 4.) To date, plaintiff has not provided the Court with an updated address.

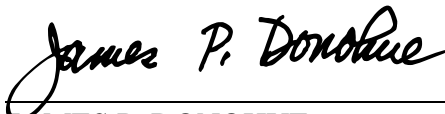
REPORT AND RECOMMENDATION - 1

1 Because over sixty days have passed since mail directed to plaintiff at his address of
2 record was returned by the post office, and because plaintiff has not notified the Court of his
3 current address, this action should be dismissed, without prejudice, for failure to prosecute
4 pursuant to Local Rule CR 41(b)(2). A proposed order accompanies this Report and
5 Recommendation.

6 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
7 served upon all parties to this suit by no later than **May 16, 2016**. Failure to file objections
8 within the specified time may affect your right to appeal. Objections should be noted for
9 consideration on the District Judge's motion calendar for the third Friday after they are filed.
10 Responses to objections may be filed within **fourteen (14)** days after service of objections. If no
11 timely objections are filed, the matter will be ready for consideration by the District Judge on
12 **May 20, 2016**.

13 This Report and Recommendation is not an appealable order. Thus, a notice of appeal
14 seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the
15 assigned District Judge acts on this Report and Recommendation.

16 DATED this 25th day of April, 2016.

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18 JAMES P. DONOHUE
19 Chief United States Magistrate Judge
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